

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
MAY - 1 2019

U.S. DISTRICT COURT
FLINT, MICHIGAN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 4:18-cr-20368

D-1 DAVID MARTIN KATZ,

Judge: Hon. Matthew F. Leitman
MJ: Hon. Stephanie Dawkins Davis

D-2 SCOTT PHILLIP ZACK,

Offenses: Count 1: 31 U.S.C. § 5324
-Structuring a Financial
Transaction
Count 2: 18 U.S.C. § 371
-Conspiracy to Defraud the
United States
Count 3: 18 U.S.C. § 371
-Conspiracy to Commit
Theft from an Organization
Receiving Federal Funds

D-3 JOHN ANTHONY CAPELLA,
a/k/a "John Patients"
a/k/a "John Washington", and

D-4 SCOTT JAY JAWETZ,
a/k/a "Sam Burns",

Defendants.

SUPERSEDING INFORMATION

**THE ACTING PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL CHARGES
THAT:**

At all times relevant to this Information, unless otherwise indicated:

1. Defendant DAVID MARTIN KATZ was a resident of West Bloomfield, Michigan, SCOTT PHILLIP ZACK was a resident of Delray Beach, Florida, JOHN ANTHONY CAPELLA was a resident of Lantana, Florida, and SCOTT JAY JAWETZ was a resident of Boca Raton, Florida.
2. The defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK operated several businesses from 2009 to 2015, using business names including Health Systems Medical Management, LLC, Medical Management Partners, LLC, and Entity A.

3. Health Systems Medical Management, LLC, ("HSMM") was a management company operating in the Detroit, Michigan area. Defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK held an ownership interest in, and controlled bank accounts in the name of HSMM.

4. Medical Management Partners, LLC, ("MMP") was a management company operating in the Detroit, Michigan area. Defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK held an ownership interest in, and controlled bank accounts in the name of, MMP.

5. Entity A was a chiropractic facility operating in Sterling Heights, Michigan. Defendants DAVID MARTIN KATZ, SCOTT PHILLIP ZACK, and others held an ownership interest in, and controlled bank accounts in the name of Entity A.

6. Blue Horseshoe Consulting, Inc. ("Blue Horseshoe") was a company operating in Florida, Michigan, and New York that was in the business of collecting automobile crash victim information from UD-10E State of Michigan Traffic Crash Reports ("Police Reports") that were obtained through illegal means and using the Police Reports to solicit automobile accident victims in Michigan to receive services from various medical and chiropractic facilities, including facilities in Genesee County, Michigan and those operated by HSMM, MMP, and Entity A. Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ controlled the operations of Blue Horseshoe.

7. From in or about March 2013 through in or about January 2017, Defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK made substantial cash withdrawals from various bank accounts in order to deliver that cash, in-person or

through private overnight delivery service, to Defendants JOHN ANTHONY CAPELLA, and SCOTT JAY JAWETZ, in part as payment for their solicitation services.

COUNT 1

31 U.S.C. § 5324
Structuring a Financial Transaction
(David Martin Katz, Scott Phillip Zack)

D-1 DAVID MARTIN KATZ
D-2 SCOTT PHILLIP ZACK

8. Paragraphs 1 through 7 of the Information are incorporated herein.

9. In or about July of 2013, in the Eastern District of Michigan, and elsewhere, defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK did knowingly and for the purpose of evading the reporting requirements of Section 5313(a) of Title 31, United States Code, and the regulations promulgated thereunder, structure transactions with a domestic financial institution, in violation of 31 U.S.C. § 5324(a)(3).

10. As part of that activity, defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK withdrew the following quantities of U.S. currency from one or more branches of PNC Bank, including a PNC Bank located on West Maple Road in Bloomfield Hills, Michigan:

Date	Amount
7/3/2013	\$6,000
7/5/2013	\$5,000
7/11/2013	\$6,000
7/18/2013	\$6,000

Such withdrawals were knowingly and intentionally divided into amounts under \$10,000 in order to avoid the filing of one or more Currency Transaction Reports by PNC Bank, as required by federal law.

All in violation of Title 31, United States Code, Section 5324; and Title 18, United States Code Section 2.

COUNT 2

18 U.S.C. § 371

Conspiracy to Defraud the United States
(John Anthony Capella, Scott Jay Jawetz)

D-3 JOHN ANTHONY CAPELLA
D-4 SCOTT JAY JAWETZ

11. Paragraphs 1 through 7 of the Information are incorporated herein.

12. From in or about August of 2012 through in or about April of 2018, in the Eastern District of Michigan and elsewhere, Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ, and others known and unknown, did unlawfully, voluntarily, intentionally, and knowingly conspire and agree with each other to defraud the United States by impeding, impairing, obstructing, and defeating the lawful Government functions of the IRS in the ascertainment, assessment, computation and collection of revenue, to wit, income taxes, by among other things committing the following overt acts:

a. From in or about January of 2013 through August of 2017, Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ provided false accounting information to their tax return preparers that omitted the wage and income information paid by Blue Horseshoe to its employees and contractors, thus causing Blue Horseshoe to fail to issue Forms W-2 or Forms 1099-MISC to its employee and contractors.

b. From in or about January of 2013 through August of 2017, Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ, together with others known and unknown caused false and fraudulent business income tax returns to be prepared and filed with the IRS that understated the gross receipts earned by Blue Horseshoe, by:

(i) Frequently directing clients, including HSMM, MMP, Entity A, and Defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK, to pay cash in exchange for Blue Horseshoe's solicitation services, then diverting those cash gross receipts to pay for their own personal expenses and failing to deposit those funds into a business bank account; and

(ii) Providing false accounting information and business records to their tax return preparers that underreported the gross receipts earned and omitted the cash gross receipts received by Blue Horseshoe. For example, the 2013 business income tax return filed with the IRS on the behalf of Blue Horseshoe underreported the gross receipts earned by the business, omitting approximately \$324,000 in cash gross receipts that Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ received as payments from Defendants DAVID MARTIN KATZ and SCOTT PHILLIP ZACK in calendar year 2013.

All in violation of Title 18, United States Code, Section 371.

COUNT 3

18 U.S.C. § 371

Conspiracy to Commit Theft from an Organization Receiving Federal Funds
(John Anthony Capella, Scott Jay Jawetz)

D-3 JOHN ANTHONY CAPELLA

D-4 SCOTT JAY JAWETZ

13. Paragraphs 1 through 7 of the Information are incorporated herein.

14. From in or about January of 2012 through in or about April of 2018, in the Eastern District of Michigan and elsewhere, Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ, Individual A, Individual B, Individual C, Individual D, and others known and unknown, intentionally, unlawfully, and knowingly did combine, conspire, confederate, and agree between and among themselves to commit theft from a program receiving federal funds, in violation of 18 U.S.C. § 666(a)(1)(A).

Manner and Means of the Conspiracy

15. To accomplish the object of this conspiracy, Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ, Individual A, Individual B, Individual C, and Individual D, together with each other and others known and unknown, used the following manner and means, among others:

a. From at least in or about January of 2012 through in or about April of 2018, Individual B was an agent of the Detroit Police Department, an organization or government entity receiving benefits in excess of \$10,000 in each fiscal year under a federal program involving a grant, contract, subsidy, or other form of federal assistance.

b. From at least in or about January of 2012 through in or about April of 2018, Individual A, Individual B, Individual C, and Individual D obtained Police Reports, many of which bore a watermark reading "Unapproved Report" indicating the Police Reports were not publicly available and were the property of the Detroit Police Department, with the intent to provide them to others, in exchange for the payment of funds. Individual A and Individual D, together with others, subsequently caused copies

of those Police Reports to be emailed to Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ.

c. From at least in or about July of 2014 through at least in or about April of 2018, Individual A and Individual D, together with others, paid or caused funds to be paid to Individual B and Individual C in exchange for their efforts in providing the relevant Police Reports.

Overt Acts

16. In furtherance of the conspiracy, and to accomplish its purposes and objects, at least one of the conspirators committed, or caused to be committed, in the Eastern District of Michigan, the following overt acts, among others:

a. From in or about July of 2012 through at least December of 2017, Individual B and Individual C caused Police Reports to be delivered at least five times each week via email to Individual A and Individual D and subsequently to Defendants JOHN ANTHONY CAPELLA and SCOTT JAY JAWETZ. Individual B and Individual C were not authorized to release the Police Reports, and many of the Police Reports bore a watermark reading "Unapproved Report" indicating the reports were not publicly available and were the property of the Detroit Police Department.

b. From in or about July of 2014 through at least in or about April of 2018, persons known and unknown caused monthly deposits of \$5,000 to \$7,500 into a shared bank account each month as payment to Individual B and Individual C in exchange for their agreement to cause Police Reports to be delivered at least five times each week via email to persons known and unknown.

All in violation of Title 18, United States Code, Section 371.

Date: May 1, 2019

STUART M. GOLDBERG
Acting Principal
Deputy Assistant Attorney General
U.S. Department of Justice Tax Division

/s/ Mark McDonald
MARK MCDONALD
WILLIAM GUAPPONE
Trial Attorneys
U.S. Department of Justice
Tax Division

(Companion Case information MUST be completed by AUSA and initialed)

United States District Court
Eastern District of Michigan**Criminal Case Cover Sheet**

Case Number

18-cr-20368

MAY - 1 2019

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case InformationCompanion Case Number: U.S. DISTRICT COURT
FLINT, MICHIGANThis may be a companion case based upon LCrR 57.10 (b)(4)¹:

Judge Assigned:

☐ Yes☐ No

AUSA's Initials: MSM

Case Title: USA v. DAVID MARTIN KATZ, et al

County where offense occurred : Genesee

Check One: ☒ Felony☐ Misdemeanor☐ Petty☐ Indictment/ ☐ Information --- no prior complaint.☐ Indictment/ ☐ Information --- based upon prior complaint ☐☐ Indictment/ ☐ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].**Superseding Case Information**

Superseding to Case No: 18-cr-20368

Judge: Matthew F. Leitman

☐ Corrects errors; no additional charges or defendants.☒ Involves, for plea purposes, different charges or adds counts.☐ Embraces same subject matter but adds the additional defendants or charges below:**Defendant name****Charges****Prior Complaint (if applicable)**

D-4 Scott Jay Jawetz

18 U.S.C. § 371

D-3 John Anthony Capella and D-4 Scott Jay Jawetz

18 U.S.C. § 371

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

May 1, 2019

Date

s/MARK MCDONALD

MARK MCDONALD

WILLIAM GUAPPONE

Trial Attorneys

U.S. Department of Justice

Tax Division

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.